

REMARKS

The Examiner has rejected claims 1-12 under 35 U.S.C. 102(b) as being anticipated by Ooi (5,026,028).

The Applicant responds as follows: Ooi discloses a device which includes a strut bracket 2 and a horizontal member bracket 12. Strut bracket 2 includes a front wall 3 and pair of elongated holes 5 formed in support plates 4, 4. Horizontal member bracket 12 includes a flat plate portion integrally formed with a cylindrical portion 12a. The cylindrical portion 12a includes a screw hole 14. The device is assembled by inserting cylindrical portion 12a between support plates 4, 4 in strut bracket 2 and aligning holes 5 with hole 14.

It can be seen from Fig. 2 of Ooi, that the cylindrical portion 12a, i.e. the rearmost portion, of member bracket 12 does not lie in abutting contact with the front wall 3 of the bracket 2. There is, in fact, a gap between the cylindrical portion 12a and front wall 3. Ooi's device is therefore missing the first requirement of claim 1 of the instant application, namely that the rear wall of the rail connector lie in abutting contact with the front wall of the bracket.

Furthermore, Applicant submits that Ooi's device does not include a first connector mechanism disposed on the bracket 2 and member bracket 12 that interlocks these two components together as is required by claim 1 of the instant application. According to the Oxford Reference Dictionary, interlocking is defined as "to engage with each other by overlapping". In Ooi's device, the cylindrical portion 12a of member bracket 12 is inserted between the plates 4, 4 of strut bracket 2. Screws 16 are inserted

through holes 5, 14 to secure cylindrical portion 12a to bracket 2. The strut bracket 2 does not overlap the member bracket 12 in any way and the member bracket 12 does not overlap the strut bracket 2 in any way. This is shown in Fig. 4 of Ooi where it can be seen that the plates 4, 4 have planar walls that abut planar side edges of cylindrical portion 12a. No parts of the bracket 2 overlap or interlock any parts of member bracket 12 or vice versa. The Examiner identified cover 20 as part of the first connector mechanism in the office action and that cover 20 therefore forms part of the interlocking mechanism for securing the bracket 2 and member bracket 12 together. Applicant firstly submits that the claim requires that the components that interlock be disposed on the rail connector (bracket 12) and the bracket (2). The cover 20 does not form part of either of these components as is required by the claim. Furthermore, Applicant submits that the cover 20 of Ooi only contacts the strut 2. There is **absolutely no contact** between the cover 20 and the horizontal member bracket 12. The cylindrical portion 12a of the horizontal member bracket 12 lies entirely between the support plates 4, 4 of strut 2; the central cover plate 25 of cover 20 lies in abutting contact with front wall 3 of strut bracket 2 a spaced distance away from cylindrical portion 12a of member bracket 12 (Fig. 2); and no part of the longitudinal plates 22 of cover 20 contact any portion of either the cylindrical portion 12a or horizontal plate portion of member bracket 12 (Fig. 4). Cover 20 does not secure the strut bracket 2 and member bracket 12 together - it merely clips over the strut bracket 2. Even the screws 16 inserted through holes 5 and 14 lie within the cover 20 (Fig. 4). Applicant respectfully submits that cover 20 plays no role in securing the components together. Applicant therefore submits that while Ooi teaches a first connector mechanism, that mechanism - being screws 16 inserted

through holes 5, 14, does not interlock the strut bracket 2 and member bracket 12 together as is required by claim 1. Ooi is therefore missing a second element of this claim.

Furthermore, claim 1 of the instant application requires that the first connector mechanism interlock the rail connector and bracket together but still allow the rail connector to slidably move along the front wall of the bracket. According to column 3, lines 28-33 of Ooi, his components are connected by:

“...threadably engaging screws 16 from the elongated holes 5 in the support plates 4,4 with the screw-threaded hole 14 thereby connecting the horizontal member bracket 12 to the strut bracket 2 **in such a manner that the former may be turned freely up and down relative to the latter.**” (Emphasis added by Applicant)

Applicant submits that the type of connection between the horizontal member bracket 12 and the strut bracket 2 as disclosed by Ooi is one that allows the strut bracket 2 to pivot about an axis extending through the screw-threaded hole 14. Furthermore, Applicant submits that when the horizontal member 10 (i.e. rail 10) is manipulated during installation, it also pivots around the axis through hole 14 because it is connected to member bracket 12. Upper plate 21 of cover 12 rests on rail 10 and consequently, when rail 10 pivots about the axis through hole 14, so does cover 20. Ooi states in column 3, lines 65 to column 4, line 2:

“.. and also **since the cover member 20 may be turned freely up and down relative to the strut bracket 2,** the horizontal member 10 may be connected to the strut 1 at any desired angle as for example, a right angle or approximately 45 degrees, as illustrated in Fig. 2.” (Emphasis added by the Applicant)

There are no components on the rail clip taught by Ooi which move in another fashion,

nor are there any other components on the device that arrest this pivotal motion. The pivotal motion of member bracket 12 is not a sliding motion between an abutting rear wall of a rail connector and front wall of a bracket as is required by claim 1.

Applicant respectfully submits that the pivotal motion between the strut bracket 2 and member bracket 12 is prevented by linking the rail 10 between two posts or tightening the screws 16 sufficiently to prevent additional motion. Applicant respectfully submits that the first connector mechanism as disclosed by Ooi does not resemble Applicant's first connector mechanism nor does it function in the same manner.

Claim 1 of the instant application further requires the provision of a second connector mechanism that fixedly connects the rail connector to the bracket and furthermore requires that the second connector mechanism extend through the rear wall of the rail connector and into the front wall of the bracket. Applicant submits that Ooi only discloses one connector mechanism for connecting the strut bracket 2 and the member bracket 12 together. This one connector mechanism is the screws 16 inserted through the plates 4, 4 of strut bracket 2 and into the cylindrical portion of the member bracket 12. The one connector mechanism therefore connects the side walls of the strut to the rear wall of the member bracket 12. If the screws 16 are tightened sufficiently, they will fixedly connect the strut bracket 2 and member bracket 12 together. Ooi therefore does not possess a second connector mechanism and is therefore missing yet another element of claim 1 of the instant application.

Applicant respectfully submits that Ooi's device only has one mechanism for connecting the strut bracket 2 and member bracket 12 together and that is the screws 16 inserted through plates 4, 4 and into screw hole 14 in cylindrical section 12a.

Applicant consequently submits that it is the pivotal connection between horizontal member bracket 12 and strut bracket 2 and the same pivotal connection between cover member 20 and strut bracket 2, that allows the angle of the plate portion of the bracket 12 to be adjusted relative to the post and this varies the angle of the rail 10. The cylindrical section 12a of bracket 12 does not lie in abutting contact with front wall 3 of strut bracket 2 - it lies a spaced distance outwardly away from front wall 3 as is best seen in Fig. 2 of the patent. Furthermore, the cylindrical section 12a does not slide along the front wall 3 of the strut bracket 2, the cylindrical section 12a pivots around the axis passing through hole 14.

The Examiner has defined Ooi's first connector mechanism to be the combination of components 4, 5, 22 and 26; and has defined the second connector mechanism to be 12 and 16. As argued above, the components 22 and 26 belong to the cover 20. The cover 20 does not connect bracket 2 to bracket 12, it only attaches to bracket 2 and does not even contact bracket 12. The only mechanism Ooi teaches for connecting bracket 2 to bracket 12 is the screws 16 inserted through the plates 4, 4 of strut bracket 2 and into the cylindrical portion 12a of member bracket 12. Applicant therefore respectfully submits that Ooi does not disclose all of the features of the claimed invention as is required to support a rejection for anticipation under 35 U.S.C. 102(b). As was disclosed in ***Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.***, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added)

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*

Applicant submits that Ooi does not disclose each and every element of the claimed invention inasmuch as Ooi's device is missing a second connector mechanism that fixedly connects the rail connector to the bracket, with the second connector mechanism extending through the rear wall of the rail connector and into the front wall of the bracket. Furthermore, Ooi does not disclose each and every element of the claimed invention arranged as in the claim inasmuch as the rear wall of the member bracket 12 in Ooi does not lie in abutting contact with the strut bracket 2 and that the first connector mechanism is not an interlocking mechanism disposed on strut bracket 2 and bracket member 12. Furthermore, Ooi's first connector mechanism does not interlock the strut bracket 2 and member bracket 12 together while allowing slidable movement between the rear wall of the member bracket 12 and front wall of strut bracket 2. Applicant therefore respectfully submits that Ooi does not disclose each and every element of claim 1, arranged as in the claims, and, consequently, Ooi does not anticipate claim 1. Applicant therefore respectfully requests that the rejection under 35 U.S.C. 102(b) be withdrawn.

Applicant has added new claims 13 and 14. Claim 13 includes the limitation that the said second connector mechanism extends through the rear wall of the rail connector and into the front wall of the bracket and Claim 14 includes the limitation that the second connector mechanism is a screw. Applicant submits that Ooi does not show any connector mechanism that extends through the rear wall of the rail connector and into the front wall of the bracket. Inasmuch as this claimed feature is not disclosed in the prior art, Applicant submits that these new claims 13 and 14 are allowable.

Applicant respectfully requests reconsideration of claims 1-12 and consideration

of new claims 13 and 14. Applicant submits that claims 1-14 are in condition for allowance and a Notice to that effect is earnestly solicited.

Should the Examiner wish to discuss any of the above matters, he is invited to call the undersigned at (330) 244-1174.

Respectfully submitted at Canton, Ohio this 1ST day of FEBRUARY, 2005.

SAND & SEBOLT

A handwritten signature in black ink, appearing to read "J. A. Sebolt", with a stylized flourish at the end.

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